STATE OF CALIFORNIA GAVIN NEWSOM, Governor

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
02/11/22
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February 11, 2022 **Agenda ID #20366**
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 19-11-019:

This is the proposed decision of Administrative Law Judge Carolyn Sisto. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's March 17, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:jnf
Attachment

Decision **<u>PROPOSED DECISION OF ALJ SISTO</u> (Mailed 2/11/2022)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Revise its Electric Marginal Costs, Revenue Allocation and Rate Design. (U39M.)	Application 19-11-019

DECISION ADDRESSING JOINT STIPULATION ON MARGINAL GENERATION CAPACITY COSTS

Summary

This decision adopts a stipulation reached between Pacific Gas and Electric Company and the California Large Energy Consumers Association (Joint Parties) on the appropriate calculation for the property tax adder to be included in the marginal generation capacity cost for new customer rates effective June 1, 2022. This issue was identified as a material dispute on factual issues in Decision 21-11-016. The Joint Parties' stipulation addresses and resolves the outstanding property tax issues in this proceeding.

This proceeding remains open.

1. Background

Pacific Gas and Electric Company (PG&E) filed this General Rate Case Phase 2 (GRC II) application (Application (A.) 19-11-019) on November 22, 2019. A prehearing conference was held on January 23, 2020. The assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued on February 10, 2020, setting the scope of issues and schedule, and identifying the parties to this proceeding.[1] The Scoping Memo created a second track of this proceeding for expedited consideration of an essential usage study plan. A decision on that track of the proceeding (Decision (D.) 20-09-021) was issued on September 28, 2020. Public participation hearings related to the remaining issues identified in the scoping memo were held virtually on November 6, 2020, at 2:00 p.m. and 6:00 p.m. A transcript of those hearings is available on the docket card for this proceeding.

In response to two motions seeking to delay consideration of real-time pricing (RTP) issues, an assigned Commissioner's Amended Scoping Memo and Ruling (Amended Scoping Memo) was filed on February 16, 2021, bifurcating the procedural schedule.

After several settlements related to rate designs for specific customer classes were filed in February – April 2021, evidentiary hearing was held on April 8, 9, 12, 13, 14, 16, 19, and 22, 2021. The parties filed opening briefs on May 20, 2021, and reply briefs on June 10, 2021. On June 16, 2021, the Administrative Law Judge (ALJ) required PG&E to submit further evidence and

[1] Parties to this proceeding are: the California Farm Bureau Federation (CFBF), Agricultural Energy Consumers Association (AECA), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), the Joint Community Choice Aggregators (East Bay Community Energy, Peninsula Clean Energy, Marin Clean Energy, Pioneer Community Energy, San Jose Clean Energy, Silicon Valley Clean Energy, and Sonoma Clean Power), the Joint Storage Parties (OhmConnect Inc., California Solar & Storage Association, and the California Energy Storage Alliance), The Utility Reform Network (TURN), Direct Access Customer Coalition, Small Business Utility Advocates (SBUA), Solar Energy Industries Association (SEIA), Center for Accessible Technology (CforAT), County of Santa Clara, Merced Irrigation District and Modesto Irrigation District, and Energy Producers and Users Coalition (EPUC), Federal Executive Agencies (FEA), Kern County Taxpayers Association, California Manufacturers & Technology Association (CMTA), the City and County of San Francisco, Energy Users Forum (EUF), Natural Resources Defense Council (NRDC), Enel X North America, Inc. (ENEL X), California Street Light Association (CALSLA), California Large Energy Consumers Association (CLECA), and the Western Manufactured Housing Communities Association (WMA).

PG&E served Exhibit PG&E-48 in response on July 16, 2021. PG&E served a revision to that response as Exhibit PG&E-49 on August 11, 2021.

A Second Amended Scoping Memo and Ruling (Second Amended Scoping Memo) was issued on August 25, 2021, setting the procedural schedule for addressing the outstanding RTP issues.

D.21-11-016, issued on November 19, 2021, decided the majority of issues related to PG&E's marginal generation capacity cost (MGCC) calculations but found the record did not clearly indicate which property tax inputs were included, and deferred a decision on the final MGCC calculation until property taxes were appropriately considered.[2] On January 21, 2022, a Joint Motion was filed by PG&E and the California Large Energy Consumers Association (CLECA) requesting that the outstanding property tax adder issues be addressed on an expedited schedule, relative to the existing schedule for the RTP issues, so that PG&E could finalize its MGCC calculation in time to implement its new rates on June 1, 2022. A stipulation on the property tax issues and the appropriate property tax factor to include in PG&E's 2020 GRC II MGCC calculations was attached to the Joint Motion.

On January 25, 2022, the ALJ issued a ruling directing parties to respond to the joint motion no later than February 1, 2022, and permitting CLECA and PG&E to reply to parties' responses no later than February 7, 2022. The ALJ's ruling bifurcated the property tax adder issue from the remaining RTP issues under consideration in this proceeding. The schedule bifurcation was intended to address the MGCC issue in a timely manner to allow PG&E to implement the rates that were otherwise deemed fair and reasonable in D.21-11-016.

[2] D.21-11-016 at 46-65.

No party objected or responded to the Joint Motion or the attached stipulation. This matter was submitted on February 1, 2022, after no party filed a response or objection to the Joint Motion or the attached stipulation pursuant to the ALJ's January 25, 2022 ruling.

2. Application of Article 12

Rule 12.1 of the Commission's Rules of Practice and Procedure (Rules) permits applicants to file agreements settling issues that are contested. Parties, including the applicant, are required to state the factual and legal considerations related to the specific issues being addressed. Further, Rule 12.1(c) states that parties should not include deadlines for Commission action except "in the rare case where delay beyond a certain date would invalidate the basis for the proposal."[3] In this instance, a stipulation was filed between two parties that contested a specific factual issue related to the calculation of the property tax adder to be included in the MGCC portion of PG&E's rates. The stipulating parties, PG&E and CLECA state that the procedural requests in their stipulation are warranted to "[p]romote timely implementation, on June 1, 2022, of the rates already found just and reasonable in D.21.11-016, by establishing a final MGCC value on or before March 17, 2022, that reflects resolution of the material issue of fact referred into this track of the GRC Phase 2 proceeding, about whether Property Taxes were appropriately included in MGCCs." The Joint Motion further states that the Commission's adoption of its request related to this specific property tax adder issue will not affect the ongoing consideration of the

[3] Commission Rule 12.1(c) further requires the timing urgency to be clearly stated and justified in the motion.

RTP pricing issues, a separate Settlement Agreement for which was filed on January 15, 2022.[4]

3. Issue Before the Commission

The issues addressed in the Joint Motion, the stipulation, and this decision solely relate to the outstanding property tax adder issues associated with PG&E's MGCC calculations for its 2020 GRC II, which were deferred in D.21-11-016. The Commission in D.21-11-016 found there was insufficient record support to determine whether property taxes were "appropriately included" in the Fixed Operations and Maintenance (FO&M) costs that are included in PG&E's calculations of Net Cost of New Entry (Net CONE) for four-hour battery projects, which are used to calculate the MGCC.

While the Commission found the Integrated Resource Planning (IRP) assumptions to be an "appropriate basis for calculating the MGCC given their role in planning future generation procurement capacity by the CPUC," with respect to property taxes, we further determined that additional information was necessary to determine what particular property tax calculation should be used.[5]

4. Dispute Regarding the Property Tax Adder

D.21-11-016 adopted PG&E's long-run avoided capacity cost of $102.53/kilowatt-year in 2021, and six-year discounted average MGCC in 2021 of $68.56/kilowatt-year for 2021-2026, subject to the inclusion of a property tax adder to be considered and approved by a Commission decision in a later phase of this proceeding.

The deferral of the property tax adder issue was due to CLECA's objections. CLECA argued that the IRP dataset does not actually include a

[4] Joint Motion at 2.

[5] D.21-11-016 at 46-65.

property tax element.[6] The Commission found that the record of the proceeding at the time D.21-11-016 was adopted did not support any particular calculation for property tax adders in PG&E's MGCC.

The Commission therefore did not address the property tax adder issue in D.21-11-016 because there was not enough information on the record to fully resolve the contested issues of fact raised by CLECA related to PG&E's MGCC calculation. The August 25, 2021, Amended Scoping Memo set the schedule for a second phase of A.19-11-019, providing that the decision resolving the outstanding issues in this proceeding is expected in July 2022. The property tax adder issue was included as an outstanding item that would need to be addressed in this proceeding's next proposed decision.

PG&E and CLECA were the only parties that had differing views on the property tax adder calculation to be included in the final MGCC. No other party addressed property tax related issues during the first phase of A.19-11-019 and no party filed comments on the Joint Motion and its attached stipulation. The Joint Motion states that PG&E needs a determination on the appropriate property tax calculation to include in its MGCC no later than March 17, 2022, to ensure it can accurately and timely implement the rates that were otherwise approved in D.21-11-016.

5. MGCC Property Tax Adder Discussion and Conclusion

The stipulation attached to the Joint Motion states that PG&E did not explicitly address property taxes for Net CONE. The tables in PG&E's testimony include zero property tax adders, suggesting the utility believed the appropriate

[6] D.21-11-016 at 58.

calculations were already included in its FO&M costs. PG&E believed the IRP assumptions included the appropriate property tax adder factors.[7]

CLECA noted in its testimony that the 2019-2020 IRP assumptions did not discuss property taxes and that, if property taxes were considered in the IRP assumptions, the remaining modeled FO&M costs would have been "unreasonably low."[8]

The stipulation explains that neither of the inputs used to inform the IRP values, which were the basis of PG&E's MGCC calculations, appropriately included property tax assumptions.[9] In the stipulation, CLECA and PG&E agree that property taxes were neither explicitly included in the FO&M costs adopted in the 2019-2020 IRP assumptions nor appropriately reflected in PG&E's MGCC calculations as proposed in A.19-11-019.

CLECA and PG&E proposed the following stipulations of fact, which were not contested by any other party in this proceeding:

1. The standalone battery projects that are considered the marginal capacity resource in PG&E's 2020 GRC II are subject to property taxes on the capital cost of the batteries, with depreciation calculated on a straight-line basis to the end of project life.
2. The capital cost is not assumed to be reduced by any rebates or property tax abatements.

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[7] Stipulation at 2. CLECA and PG&E note that this belief was only communicated to the Commission's Energy Division after the filing of PG&E's rebuttal testimony associated with the broader MGCC issues addressed in A.19-11-019.

[8] Exhibit CLECA-03 at 16. CLECA stated that IRP documentation does not mention property taxes and that state (1%) and local (0.25%) property taxes amount to 1.25 percent, leaving only 0.25 percent for the remainder of FO&M.

[9] Stipulation at 5, referencing Exhibit PG&E-7 at 2-52, which stated: "PG&E bases its capital cost and other assumptions on the IRP inputs, which draw on reports from both Lazard 4.0 and NREL."

Further, CLECA and PG&E agreed that adding a property tax factor of 1.25% and depreciating it, as described in (1) above, would increase the adopted 2021-2026 MGCC from $68.56/kW-yr to $76.35/kW-yr – an increase of approximately 11%. This factor aligns with CLECA's initial proposal and was confirmed by PG&E's tax department.[10] For the purposes of PG&E's 2020 GRC II MGCC calculations, as otherwise approved in D.21-11-016, we find this compromise and agreement related to the appropriate property tax adder to be reasonable in light of the whole record, in the public interest, and consistent with the law.[11] The motion and stipulation included as Appendix A of this decision are received as evidence in this proceeding and the property tax adder agreed therein shall be used for PG&E's 2020 GRC II MGCC calculations.

6. Comments on Proposed Decision

The proposed decision of ALJ Carolyn Sisto in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on __________, and reply comments were filed on _____________ by ________________.

7. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Carolyn Sisto is the assigned ALJ in this proceeding.

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[10] Exhibit CLECA-3 at 26, Table 5 and Joint Stipulation at 7-9.

[11] D.21-11-016 (at 63-65) found the peak-to-off-peak generation rate differentials for PG&E's time-of-use periods are not materially affected by the adoption of PG&E's MGCC calculations, and adopted a six-year discounted average MGCC in 2021 of $68.56/kilowatt-year for 2021-2026, subject to the inclusion of a property tax adder to be considered and approved by a Commission decision.

Findings of Fact

1. PG&E's MGCC calculations in A.19-11-019 were based on the Commission's 2019-2020 IRP assumptions, which did not include an appropriate tax adder.

2. The standalone battery projects that are considered the marginal capacity resource in PG&E's 2020 GRC II are subject to property taxes on the capital cost of the batteries, with depreciation calculated on a straight-line basis to the end of project life.

3. The capital cost for standalone battery projects, which are considered the marginal capacity resource in PG&E's 2020 GRC II, is not assumed to be reduced by any rebates or property tax abatements.

4. Applying a property tax factor of 1.25% to PG&E's 2020 GRC II MGCC calculation would align with CLECA's initial proposal.

5. PG&E's tax department has agreed a property tax factor of 1.25% would be appropriate to include in its 2020 GRC II MGCC calculations.

6. No party opposed to the stipulation between CLECA and PG&E that would adopt a property tax factor of 1.25% for the adopted 2021-2026 MGCC.

7. D.21-11-016 did not determine the appropriate calculation of property taxes within PG&E's 2020 GRC II MGCC.

Conclusions of Law

1. The stipulation attached as Appendix A of this decision is reasonable in light of the whole record, consistent with the law, and in the public interest.

2. The stipulation should be admitted into evidence in A.19-11-019.

3. It is reasonable to apply a property tax factor of 1.25% when calculating the MGCC for PG&E's 2020 GRC II rates that were otherwise approved in D.21-11-016.

O R D E R

IT IS ORDERED that:

1. The stipulation attached to the January 21, 2022, Joint Motion filed by Pacific Gas and Electric Company and the California Large Energy Consumers Association, resolving the disputed property tax adder issue, is adopted.
2. Pacific Gas and Electric Company shall use a property tax factor of 1.25% when calculating the marginal generation capacity cost for its 2020 General Rate Case Phase 2 rates, which were otherwise approved in Decision 21-11-016.
3. Application 19-11-019 remains open.

This order is effective today.

Dated ____________________________, at San Francisco, California.

APPENDIX A:

PGE and CLECA MGCC Property Tax Motion and Stipulation